[From advance sheets of Vol. IV. of the Papers of the New Haven Colony Historical Society.]

THE CAPTIVES OF THE AMISTAD.

A Paper read before the New Haven Colony Historical Society

BY

SIMEON E. BALDWIN.

CAGE
E441
.B36
1886

m.e.w. 1/6/13.

THE CAPTIVES OF THE AMISTAD.

By Simeon E. Baldwin.

[Read May 17, 1886].

The most famous case ever tried in Connecticut was that of the *Amistad*. None ever awakened a wider interest or a deeper feeling. There is something dramatic in the story of every law-suit; but here was a tragedy of the loftiest character, an issue to which great governments were parties. It had a large political importance, and in reviewing our history for a quarter of a century that followed its decision, I think we may fairly deem it one of the first guide-posts that pointed the way to the yet unopened grave of slavery in the United States. Our late associate, Mr. John W. Barber, published in pamphlet form in 1840, a brief account of the earlier stages of the affair, and Henry Wilson in his *Rise and Fall of the Slave Power in America*, devotes a chapter to the case;* but it seems worthy of a fuller record, in which both its legal and its political features can be described with greater precision and completeness.

In the Spring of 1839, a number of Africans living near the west coast, were kidnapped by some of their own countrymen, acting as the agents of Spanish slave-traders, and placed in a barracoon, at a place called Dumbomo. From thence, a

* Vol. i., p. 456.

Portuguese slaver, the Teçora, took them to Havana, where in a few days they were sold in two lots to a couple of Cubans, Don José Ruiz and Don Pedro Montez. Ruiz was the largest purchaser, taking 49 of them at $450 apiece.*

At this time the slave trade was no longer lawful in Spain. The law of nations did not forbid it, but in 1817, Great Britain, by the payment of £400,000, obtained the ratification of a treaty with that power, by which it was to be abolished throughout the Spanish dominions in 1820. A royal decree was promulgated to carry this stipulation into effect, but it remained practically a dead letter in her American colonies.

The chief of these Mendi captives, was Cinquè, otherwise called Cinquez, Jinqua, or Sinqua, a tall and stalwart African of commanding presence and determined spirit. A little schooner of about sixty tons was chartered to take them, with an assorted cargo of merchandise, tō Guanaja, another Cuban port, and Ruiz and Montez sailed from Havana on June 28, 1839. The vessel's papers described the negroes as *ladinos*, a term meaning those who had acquired a foreign language, but commonly used to designate slaves imported before 1820; and to give this more color, Spanish names were also assigned to each, at random. This was done by collusion between the authorities and the slave traders, who usually paid the Governor at Havana hush-money at the rate of $15 a head, for each slave landed at the port.

The Africans had been brought over on the Teçora in irons, but it was thought unnecessary to chain them down on this short coasting voyage. Their supply of provisions and water was scant, and two who went to the water-cask without leave were whipped for it. One of them asked the cook where they were being taken, and received for answer that they were going to be killed and then eaten. This ill-timed mockery was taken for earnest, and was the last incitement needed to rouse the captives to strike for liberty. During the second night out, they rose under the lead of Cinquè. Several of them had

* Executive Doc., 1st Sess., 28th Congr., vol. iv., Doc. 83, p. 17.

armed themselves with knives, of the kind used to cut the sugar-cane. The captain of the schooner was attacked, killed his first assailant, and then fell himself by a stroke from Cinquè's knife. The cook paid for his pleasantry with his life, also at Cinquè's hand. Montez was severely wounded. The cabin-boy, a mulatto slave of the captain, named Antonio, and Ruiz, were secured and bound. The rest of the crew escaped in one of the boats.

It was a sharp and sudden struggle. Mr. Barber made it the subject of one of his quaint wood-cuts, as a frontispiece to his history of the Amistad Captives already noticed, and Mr. Hewins, a Boston artist, painted a large picture of the scene, which is now deposited in this building, the property of our associate, Mr. Wm. B. Goodyear.

The cane-knife, of which the negroes made use, is a formidable weapon, and does its work something after the fashion of a hatchet or short bill-hook. The handle is a square bar of steel an inch thick, and the blade, which is some two feet long, widens regularly out to a breadth of three inches at the end. In the grasp of a strong arm like that of Cinquè, it is as sure and deadly as the guillotine.

It was his design, if the rising were successful, to attempt the voyage back to their native country, of which they only knew that it was "three moons" distant and lay toward the east. One of the negroes could speak a little Arabic, and another a few words of English. By signs and threats they made Ruiz and Montez take the wheel by turns, and steer to the eastward. By day, they kept this direction, but as soon as the tell-tale sun had set, they would bring the vessel gradually about and head for the north. Two months of these zig-zag courses brought the little schooner at last to a shore far from that which the Africans had hoped to see.

On Sunday, August 25th, they cast anchor off what proved to be the northern coast of Long Island, not far from Montauk Point.

A reconnoitring party came ashore, some with nothing on but a handerkerchief twisted around their loins, and others with

blankets thrown over their shoulders. They went to the neighboring houses for water and provisions, and paid for what they got in Spanish gold, buying among other things a couple of dogs for a doubloon apiece.

The schooner had been sailing about the entrance to the Sound in an aimless way for two or three days before the landing, and the newspapers had mentioned it as a suspicious craft. On Monday, while some of the negroes were cooking on the beach and others lying down in the long grass, a party of the neighboring inhabitants drove up to find out who they were.

Banna, the one who knew a few English words, tried to communicate with them. His first inquiry, I regret to say, was "Have you rum?" and the first information he volunteered was that they had money, some of which was promptly accepted by their visitors in exchange for a bottle of gin. Cinquè who was at this time on board the schooner, was now sent for, and as soon as he was rowed over, he told Banna to ask whether this country made slaves. The reply was, "No. This is a free country." "Are there any Spaniards here?" was the next question. Again they said, "No," and at this Cinquè whistled. and all his followers sprang up and gave a shout of joy. The white men were frightened and ran to their wagons for their guns, but the blacks soon showed that they had no hostile intent, by shaking hands and presenting them with their own guns, of which they had two, a knife, a hat and a handkerchief. They asked one of their visitors, a Capt. Green, who was a sea-faring man, if he would not come on board and steer them to Sierra Leone, and he gave them some encouragement to think that he would do so the next day.

It so happened that a coast-survey brig, the *Washington*, was in that part of the Sound on this afternoon, and her commander, from the appearance of the *Amistad* as she passed her, thought the vessel was on shore, or in distress. A boat's crew was sent to her assistance, and found only negroes on deck, armed with cane-knives. The boarding officer climbed into the rigging and ordered them below, at the point of a pistol. They obeyed, and Montez and Ruiz were sent up on deck, who at once claimed

protection. Cinquè with the two dogs sprang into the water and made for shore, but was pursued, retaken, and hand-cuffed. Those of the negroes who were on the beach, after a shot fired over their heads, and a display of cutlasses, were captured without resistance by an officer of the brig, falling on their knees for protection around the men on the island who had told them this was a free country.

When Cinquè was taken back, a captive, to the deck of the *Amistad*, the other negroes gathered about him, and he made an address which moved them very deeply. Antonio, the cabin-boy, understood enough of the words to give a summary of the speech in Spanish to a newspaper editor in New London, who translated it, very likely with some additions, in English, as follows:

"Friends and Brothers: We would have returned, but the sun was against us. I would not see you serve the white man. So I induced you to help me kill the Captain. I thought I should be killed. I expected it. It would have been better. You had better be killed than live many moons in misery. I shall be hanged, I think, everyday. But this does not pain me. I could die happy if by dying I could save so many of my brothers from the bondage of the white men." *

It was thought prudent to handcuff Cinquè and keep him on the *Washington* over night, but the next day he made signs to his guards that if taken back to the *Amistad* he could show them where there was a handkerchief full of doubloons. He was promptly rowed over to the schooner, and as the negroes gathered around him with joyful greetings, he again addressed them with great earnestness and passion, until at last they all seemed on the point of rising on their captors, and he was hurried away at a sign from Antonio.

The second speech, as Antonio and the New London editor gave it to the newspapers, ran thus:

"My brothers. I am once more among you, having deceived the enemy of our race by saying that I had doubloons. I come to tell you that you have only one chance for death, and none

* New York Sun of August 31, 1839.

for liberty. I am sure you prefer death, as I do. You can, by killing the white men now on board (and I will help you), make the people here kill you. It is better for you to die thus, and then you will not only avert bondage yourselves, but prevent the entailment of unnumbered wrongs on your children. Come: Come with me, then!" *

But here, as I have said, he was seized and overpowered.

The Africans now numbered only 44, three of whom were young girls. During their two months voyage ten had died, and one more expired on the night of the capture.

The *Washington* took her prize across the Sound into New London harbor, and dispatched a messenger to New Haven to inform the United States Marshal of what had occurred. Norris Wilcox was then the Marshal, and on August 29th, Judge Judson, then the District Judge, and he were on board the cutter, to hold a Court of Inquiry. The District Attorney was Mr. Holabird of Winsted, and Judge Charles A. Ingersoll of this city, who appeared in his behalf, filed an information charging Cinquè, under his pretended name of Joseph, and 38 others, with the crime of murder and piracy. The court deemed the evidence sufficient to justify the proceeding, and they were all committed to jail to stand their trial at the next Circuit Court to be held at Hartford on September 17th. The cabin-boy, Antonio, and the three girls were also held as witnesses, and sent to jail with the others, for want of bonds.

Lieutenants Gedney and Mead, of the *Washington*, had also brought a suit in admiralty against the *Amistad* and her cargo, and "fifty-four slaves," claiming to have rescued them for the benefit of their owners, and asking for salvage in behalf of themselves and their crew. The trial of this suit was set down for Sept. 19th, in the District Court, and Ruiz and Montez went on to New York to see the Spanish consul, after

* In the discussion which followed the reading of this paper, Professor George E. Day, D.D., stated to the Society that these two speeches were, at the time of their publication, generally supposed to be somewhat like the speeches one finds in Livy, so far as concerned the fidelity of the report.

publishing a card in the newspapers, thanking the officers of the cutter for their "rescue from the hands of a ruthless gang of African buccaniers."

Cinquè was sent in irons to New Haven on another government vessel, and the rest of the captives were taken over in a coasting schooner, arriving here on Sunday, September 1st. The whole forty-four were crowded into four apartments in our County jail, then standing on the site of our present City Hall.

Banna was the only one of the prisoners who knew an English word, and he was master of so few that they were substantially shut out from the possibility of communicating with the outside world. Their side of their story was untold. But the very helplessness of these unfortunate people was the best assurance of defense in a community like ours. The "irrepressible conflict" between Freedom and Slavery was already drawing on. Here, on the soil of a free State, were a band of men in confinement on a charge of murder, because, when kidnapped against law, on a Spanish vessel, they had risked life for liberty, knowing, untaught, that

"Who would be free, themselves must strike the blow."

The anti-slavery men in New York moved first, and within three days of their landing at this port.

Rev. Simeon S. Jocelyn (formerly pastor of one of our churches for colored people), Rev. Joshua Leavitt and Lewis Tappan, volunteered to act as a committee to receive funds for the defense of the Africans, and for providing them with clothing and other necessaries. They issued a public appeal, which was printed in the *Emancipator*, secured counsel, and endeavored to find an interpreter through whom their story could be fully learned. In this they were ably seconded by the late Professor Gibbs of the Yale Divinity School. He visited the Africans in jail repeatedly, and got from each of them the sounds which represented to him each of the first ten numerals. There was a general correspondence in the sounds given, with some dialectic variations, and Professor Gibbs then went about among the vessels in our harbor, and in that of New York, seeking to find some African sailor who was familiar with the

language to which the words thus framed belonged. At last he found a boy of eighteen from Sierra Leone, James Covey, who recognized the numerals, as they were thus named to him, and had some acquaintance with English also. He was immediately brought up to New Haven, and on Sept. 9th, for the first time since their arrival on our shores, the captives were enabled to communicate freely with those about them. Covey could speak in a tongue which the captives understood—that of the *Gallinas* country, and they manifested the utmost joy at hearing the sound of familiar words from a friendly voice. Professor Gibbs, with his aid, at once set out to make a vocabulary of their language, which was that of the Mendi country, lying north of Liberia, and he was soon able to converse with most of them.

The government provided all the prisoners with clothing, and the men struggled as best they could into their pantaloons, laughing good-humoredly at each other as the new dress was assumed. Shawls were given to the girls, which they at once wound up into turbans for their heads.

In a few days they were put on the canal-boat for Farmington, and thence driven over to Hartford, where, on Sept. 19th, the salvage case came on for a hearing.

Ruiz and Montez appeared at the same time and asked that the prisoners be delivered to them, or to the Spanish government as their lawful slaves; and Henry Green and the other citizens of Long Island, with whom the negroes had first fallen in, also filed a claim for salvage, similar to that of the officers of the *Washington*. In behalf of the United States a further libel was filed on the same day, stating that the Spanish minister had presented to the State Department a claim for the delivery of the *Amistad* and her cargo and the slaves found on board, pursuant to the treaty of 1795 between the two governments and asking either for such delivery or for their transportation to Africa, according as the law might be found to require. These suits were all in the District Court. The Circuit Court came in at the same time, to take up the indictments for piracy and murder, and writs of *habeas corpus* were applied for there in behalf of all the Africans.

These proceedings attracted the greatest public interest. Among the counsel who appeared before the courts were Ralph I. Ingersoll and William Hungerford for the Spanish crown, Gov. Ellsworth for the Long Island claimants, Seth P. Staples and Theodore Sedgwick of New York, and Roger S. Baldwin for the Africans.

Three days were occupied in considering the various questions involved, and the first result was that the grand jury were instructed by Judge Thompson of the Circuit Court that no criminal proceedings could be maintained, inasmuch as the acts complained of were done on a Spanish vessel, and were therefore cognizable only in the courts of Spain.

Judge Judson also announced to the counsel of the salvage claimants that whatever right of that nature they might have as to the goods seized, the court had no power to sell men, women and children for their benefit.

The great question remaining was that raised by the *habeas corpus* petitions, and it was argued with great fulness and vigor on both sides. "How came these negroes," said Mr. Baldwin, "to be slaves or property? Were they born owing allegiance to the Spanish government? Not at all. They are natives of Africa. How came they so far subject to the Spanish laws as to be judged by them? How is it, when these persons come before our courts asserting their liberty, that they are to be judged by Spanish laws? Have these children" (the three little girls, the oldest not ten, had been brought into court, crying with fright, and clinging to the jailer for protection) "ever been domiciled in Spain? They were torn from their parents in Africa; forcibly landed in the island of Cuba, late at night, and cruelly sold to these men. Are they to be judged by Spanish laws, or by our own laws, or by the law of Nature? By this law, our own Supreme Court have decided that they are free."

Mr. Staples denied that the Spanish treaty reached the case of free-born Africans, wrongfully enslaved. "Let such a claim," he said, "be set up by the President, Senate, or Spanish minister, and let the government of this nation avow that they will

surrender these victims of oppression, and I will abandon such a country, and seek my fortunes in some British island."

There was less opportunity for rhetoric on the other side, but the legal questions involved were discussed with great learning and ability by Mr. Ingersoll and Mr. Hungerford. Mr. Holabird, the District Attorney, said that he believed the negroes could maintain their right to liberty, but that the place to prove it was in the District Court, in answer to the papers which he had filed in behalf of the government, and that they must be held till this was done. On the same day, he wrote to the State Department of the decision that the court had no jurisdiction of the criminal proceedings, and that the *habeas corpus* petitions remained undecided, adding:

"I should regret extremely that the rascally blacks should fall into the hands of the abolitionists, with whom Hartford is filled."

In copies of the *Amistad* correspondence soon after furnished to the House of Representatives, at its request, this sentence was omitted, and also the word *no* before jurisdiction.*

On September 23d, Judge Thompson announced the decision of the Circuit Court. "Because," he said, "slavery is not tolerated in Connecticut, it does not follow that the right of these Spanish claimants to these negroes cannot be investigated here in the proper court of the United States. Our constitution and laws recognize the right of one man to have the control of the labor of another man. The laws of the land must be construed by this court in Connecticut precisely as they would be, if it were sitting in Virginia. It is its province to determine what the laws are, not what it might be desired they should be. The question whether these men are slaves or free is rightfully before the District Court, and must be decided there in the ordinary course of law."

The discharge of the prisoners was therefore refused, and they were brought back to the New Haven jail; but as Judge Thompson had decided that they had committed no crime against our laws, they were now given much more freedom.

* Memoirs of John Quincy Adams, x., 398.

Cinquè, who had been confined separately, as the ringleader in killing the captain of the *Amistad*, was now put with the others. His firm, though open countenance, and manly form are well preserved to us in a spirited sketch by our late honored townsman, Nathaniel Jocelyn, and the engraving made from it by Sartain, of which many copies still exist in the city.

On pleasant days the captives were taken out on the Green, in front of the jail, for exercise, and performed many wild feats of agility to the delight of crowds of spectators. Inside the jail they had plenty of visitors from curiosity or charity, so that at last the jailer came to charge an entrance fee of a shilling a head, which went to supply them with additional comforts.

Ruiz and Montez were, at about this time, arrested in New York on suits brought in the names of Cinquè and another of the captives, in an action for damages for false imprisonment. The Spanish minister appealed to the State Department for their release, and the United States District Attorney of New York was directed to lend them his assistance. Both were afterwards released on giving bail in a small amount, but Ruiz lay in jail for six weeks before procuring a bondsman. Repeated applications for his relief were made meanwhile by the Spanish legation to our government, but the Secretary of State replied that the only remedy was before the Courts of New York, and that the United States had done everything that Spain could properly ask. In his dispatch of Dec. 12, 1839, he used these words:

"Messrs. Ruiz and Montez were first found near the coast of the United States, deprived of their property and of their freedom, suffering from lawless violence in their persons, and in imminent and constant danger of being deprived of their lives also. They were found in this distressing and perilous situation by officers of the United States, who, moved towards them by sympathetic feeling, which subsequently became, as it were, national, immediately rescued them from personal danger, restored them to freedom, secured their oppressors, that they might abide the consequences of the acts of violence perpetrated upon them, and placed under the safeguard of the laws all the property which they claimed as their own, to remain in safety until the competent authority could examine their title to it, and pronounce upon the question of ownership, agreeably to the provisions of the 9th Article of the treaty of 1795."

The tone of this dispatch indicates clearly the feeling of the administration. Martin Van Buren was President, and was not yet the Martin Van Buren who headed the Free Soil ticket for the Presidency in 1848. The Secretary of State, Mr. Forsyth, was a Georgian, and had been our minister at the Court of Madrid.

The diplomatic questions involved were of a delicate nature. The Spanish treaty provided that in case the inhabitants of either country, with their shipping, should be forced through pursuit of pirates or enemy or any other urgent necessity, to enter into any roads or ports of the other, they should enjoy all protection, and in no ways be hindered from returning; and that all ships and merchandise of what nature soever, which should be rescued out of the hands of any pirates or robbers on the high seas, and brought into a port of either State, should be taken care of and returned entire to the true proprietor, as soon as due and sufficient proof of ownership should be made.

If the ship's papers of the *Amistad* were to be accepted as true, the negroes were rightfully put on board of her as slaves, and were being lawfully transported to a Spanish port, when they rose and freed themselves, and therefore were guilty under Spanish law of piracy and murder: they were then also property and merchandise within the description of the treaty.

The friends of the Africans feared that the President and Secretary of State might take matters into their own hands, and by some mere executive order hand them over to Spain as fugitives from justice, to be sent back to Cuba and tried for murder. The Spanish minister had formally demanded their extradition as early as September 6th. In his dispatch of that date, after thanking our government for the seizure of the *Amistad* and release of Ruiz and Montez, he said:

"The act of humanity thus performed would have been complete, had the vessel at the same time been set at liberty, and the negroes sent to be tried by the proper tribunal, and by the violated laws of the country of which they are subjects."

"If," he added, "they should be condemned by the incompetent tribunal that has taken upon itself to try them, as pirates

and assassins, the infliction of capital punishment in this case would not be attended with the salutary effects had in view by the law when it resorts to this powerful and terrible alternative, namely, to prevent the commission of similar offenses." The claims presented therefore were that the *Amistad* and her cargo be forthwith given up to her owners, and "that the negroes be conveyed to Havana, or be placed at the disposal of the proper authorities in that part of Her Majesty's dominions, in order to their being tried by the Spanish laws which they have violated; and that in the meantime they be kept in safe custody, in order to prevent their escape."

On Sept. 13th, Messrs. Staples and Sedgwick, the New York counsel of the "Amistad committee" which had charge of the funds contributed to defend the Africans, addressed a letter to the President, protesting against any compliance with the demand of the Spanish minister. Their claim was that, even under Cuban law, the negroes were unlawfully enslaved, and had a right to strike for freedom.

"It is this question," they said, "that we pray may not be decided in the recesses of the Cabinet, where these unfriended men can have no counsel, and can produce no proof, but in the halls of Justice, with the safeguards that she throws around the unfriended and the oppressed."

This letter, together with that of the Spanish minister, was referred to the Attorney General, Felix Grundy of Tennessee. His opinion* was that the demands of Spain were just; that the negroes could not be tried here for an offense committed on a Spanish ship in Spanish waters; that the government could not go behind the ship's papers to ascertain whether they were really slaves or not, but must leave the determination of that question to the Spanish authorities; and, in conclusion, "that a delivery to the Spanish minister is the only safe course for this government to pursue."

It is the opinion of many of the most eminent authorities in international law, that it rests in the discretion of the executive department of every government to surrender a fugitive from

* Opinions of the Attorney General, iii. 484.

another country, by which his return is sought, upon reasonable proof that he has been guilty of any offence which is commonly regarded as a gross crime by civilized nations. President Lincoln in 1864, surrendered in this way to Spain, a Cuban officer named Arguelles, who had fraudulently sold into slavery some negroes placed in his custody, although still no extradition treaty existed between the two governments; and in 1876, William M. Tweed was in a similar manner surrendered to the United States, by Spain, to be tried for defrauding the city of New York.

But while the opinion of Mr. Grundy was approved by the Cabinet, and the Spanish minister confidentially informed of its main features, as early as November, it was decided to issue no warrant of extradition until the termination of the proceedings in the District Court.

These had become still more complicated by a new libel filed by the District Attorney, setting out more particularly the claim of Spain, and a petition by the Vice Consul of that nation, stating that Antonio, the mulatto cabin-boy, was the slave of the murdered captain of the *Amistad*, and wanted to return to slavery, and praying that he be released and put in charge of the consulate for that purpose. The owners of the merchandise on board the schooner also put in their claims for its restitution. In behalf of the Africans, a plea that the Court had no jurisdiction over them was first entered, and then withdrawn, and replaced by an answer in which they asserted their right to freedom, and justified their taking possession of the vessel, as a lawful attempt to vindicate it. A good deal of testimony had also been taken, among which was a long deposition of Dr. R. R. Madden, who had been for years the British Commissioner of Liberated Africans at Havana, and stated that the slave-trade was still carried on there, by the fraudulent connivance of the authorities.

The "law's delay" had by this time quite outrun the patience of the Spanish minister, the Chevalier de Argaiz, and he sent in a warm remonstrance, to which the Secretary of State replied that he could not "but perceive with regret that the

Chevalier de Argaiz has not formed an accurate conception of the true character of the question, nor of the rules by which, under the constitutional institutions of this country, the examination of it must be conducted."

"Possibly," was the minister's rejoinder, "the undersigned may not have formed such an accurate conception of this affair since it has been carried within the circle of legal subtleties, as he has not pursued the profession of the law; but he is well persuaded that if the crew of the *Amistad* had been composed of white men, the Court or the corporation to which the Government of the United States might have submitted the examination of the question, would have observed the rules by which it should be conducted under the constitutional institutions of the country, and would have limited itself to the ascertainment of the facts of the murders committed on the 30th of June; and the undersigned does not comprehend the privilege enjoyed by negroes, in favor of whom an interminable suit is commenced, in which everything is deposed by every person who pleases; and for that object an English doctor, who accuses the Spanish Government of not complying with its treaties, and calumniates the Captain General of the island of Cuba, by charging him with bribery."

A few days after the receipt of this dispatch, Mr. Forsyth had an interview with the Chevalier de Argaiz, in which he suggested that the District Court might decide in January in favor of the delivery of the vessel, cargo and negroes to Spain, and that it would be necessary to have some one at New Haven ready to take immediate possession. The *Amistad* was so covered with barnacles and grass, as to be unfit for a voyage, and as Spain had no ship then in our waters, the minister asked that our Government might send them back in one of its own vessels. The President consented, giving as one of his reasons that this would give the Africans the fairest opportunity to try their claim to liberty, in the proper court, under the protection of the Spanish authorities, and promising to send with them the officers of the *Washington*, by whom they were captured, and a copy of the record of all the judicial proceedings in this country.

Enough of these proceedings came to the knowledge of the British Government, to prompt them to make a friendly effort in behalf of the captives at Madrid, and on Jan. 5, 1840, their minister at that Court addressed a communication to the department of foreign affairs, stating that he had been instructed "to call upon the Government of her Catholic Majesty to issue with as little delay as possible, strict orders to the authorities of Cuba, that if the request of the Spanish minister at Washington be complied with, these negroes may be put in possession of the liberty of which they were deprived, and to the recovery of which they have an undeniable title," and adding, "I am further directed to express the just expectations of her Majesty's Government that the government of her Catholic Majesty will cause the laws against the slave-trade, to be enforced against Messrs. José Ruiz and Pedro Montez, who purchased these newly imported negroes, and against all such other Spanish subjects as have been concerned in this nefarious transaction."

The trial came on in this city and in the old court-room in this building on January 7, 1840, before Judge Judson.

Another name had by this time been added to those of the prisoners' counsel—that of John Quincy Adams, still in vigorous old age, and a leading member of the House of Representatives. To most lawyers an admiralty case comes seldom, and when it comes, requires special study; but of all admiralty cases ever brought in America this probably presented points of the greatest intricacy and importance. Mr. Adams was first consulted in regard to it by Ellis Gray Loring, after the decision in the *habeas corpus* cases, on September 23, 1839,* and on October 1st he writes in his diary that it "now absorbs a great part of my time, and all my good feelings."

He did not appear at New Haven, nor was his presence needed to crowd the court-room. The public feeling had become more and more intense the longer the Africans were held in captivity. They had made friends for themselves by their intercourse with our citizens at the jail. Professor George E. Day, of our Theological Seminary, then an assistant instructor there,

* Memoirs of John Quincy Adams, x. 131.

had been engaged to give them regular instruction, as well as some notions of the Christian religion, and he had found them apt scholars.

The trial lasted a week, and during the closing days of argument hundreds of spectators, in order to keep their seats, remained in the court-room during the entire noon recess, which lasted over two hours. The decision was that the officers of the *Washington* were entitled to salvage on the vessel and cargo, but not on the negroes, as, even if they were slaves, they had no value in Connecticut; that Green and the other 'long-shore-men had done nothing for which they could claim compensation; that Antonio was a born slave and must be returned to Cuba; that the other prisoners were freeborn and only kidnapped into slavery, and therefore free by the law of Spain itself; and that they should be delivered to the President of the United States, to be by him transported back to Africa, under a statute passed in 1819, applicable to slaves illegally imported into this country in violation of the Act of Congress of 1808, prohibiting the slave-trade.

Rev. Mr. Ludlow, one of the local committee in charge of the interests of the Africans, hurried to the jail with the glad tidings that they were declared free, and were to be sent back to their own country. All but one rose with the utmost emotion and prostrated themselves at his feet in joy. One remained sitting, not understanding the Mendi language in which the decision had been made known, but as soon as a comrade, who knew a common language, told him the good news he was at once on the floor with the rest.

Judge Judson had been appointed to office by President Van Buren not long before the capture of the *Amistad*, and as a lawyer he had been best known as having brought the criminal proceedings against Prudence Crandall for setting up a boarding-school at Canterbury, his own town, for colored girls, at which she received pupils who did not reside in Connecticut.* His decision was quite a disappointment to the Administration,

* State *vs.* Crandall, 10 Conn., 339.

which was not mitigated by the language in which it was expressed. "Cinquez and Grabeau," read the opinion, "shall not sigh for Africa in vain. Bloody as may be their hands, they shall yet embrace their kindred."*

The ship-of-war which the Secretary of State had promised the Spanish minister had been dispatched to this port, under secret orders, the week before the court was to sit. It was the schooner *Grampus*, Lieut. Paine, and its commander was directed to report to the District Attorney immediately upon his arrival, "in order that he may receive the earliest information of the decision of the Court and advise with him as to the mode of carrying it into effect." The memorandum from the State Department to the Navy Department, upon which the *Grampus* was sent out, read as follows:

"DEPARTMENT OF STATE, January 2, 1840.

"The vessel destined to convey the negroes of the *Amistad* to Cuba, to be ordered to anchor off the port of New Haven, Connecticut, as early as the 10th of January next, and be in readiness to receive said negroes from the Marshal of the United States, and proceed with them to Havana, under instructions to be hereafter transmitted.

"Lieutenants Gedney and Meade to be ordered to hold themselves in readiness to proceed in the same vessel, for the purpose of affording their testimony in any proceedings that may be ordered by the authorities of Cuba in the matter.

"These orders should be given with special instructions that they are not to be communicated to any one."

The *Grampus* arrived in port while the argument was in progress, and bore a warrant signed by the President to the Marshal of the District, commanding him to deliver to Lieutenant Paine, and aid in conveying on board the vessel under his command, all the negroes late of the Spanish schooner *Amistad* in his custody, under process now pending before the Circuit Court. The court in question was not the Circuit but the District Court, and the District Attorney had to dispatch a special courier back to Washington to get a new warrant, as that sent on would, he wrote, be no justification if "the pretended friends of the negroes obtain a writ of habeas corpus."

* New Haven *Daily Palladium*, of Jan. 13, 1840.

The marshal also desired further instructions as to whether the warrant should be executed if the decision were in favor of the release of the prisoners, or if the decree should be appealed from. The messenger arrived at Washington on Sunday, and an immediate reply, marked *Confidential*, was sent back, with a new warrant in proper form, and these significant instructions for the Marshal:

"With reference to the inquiry from the Marshal, to which you allude, I have to state, by direction of the President, that, if the decision of the court is such as is anticipated, the order of the President is to be carried into execution unless an appeal shall actually have been interposed. You are not to take it for granted that it will be interposed. And if, on the contrary, the decision of the court is different, you are to take out an appeal, and allow things to remain as they are until the appeal shall have been decided."

The *Grampus* was not the only ship in New Haven harbor, during these exciting days, under secret orders. The members of the *Amistad* committee, or some of them, in connection with Nathaniel Jocelyn, a brother of Rev. S. S. Jocelyn of the committee, had another vessel here ready to receive the Africans, in case of an adverse decision, and run them off to some more friendly shore.* Plans had been laid for their rescue from the jail, for this purpose, if necessary by force; but Judge Judson's decision happily averted any occasion for attempts to resist the authority of the law.

An appeal was promptly taken by the Government to the Circuit Court, which in April, 1840, sustained the decision, and thereupon a final appeal was taken to the Supreme Court of the United States.

Meanwhile the matter began to assume more political importance. A Presidential campaign was impending and Mr. Van Buren was a candidate for re-nomination. Mr. Adams in March had carried through a resolution in the House of Representatives, calling for copies of all papers in the State Department touching the *Amistad*, and they were sent in and printed in April. The document† was eagerly sought for and the whole edition

* New Haven *Journal & Courier*, Jan. 15, 1881.

† House Document No. 185, 26th Congr., 1st session.

was gone in a few days. It was immediately reprinted by the Amistad committee, and copies put on sale at the "Anti-Slavery depository" in New York.

In the official translation sent in with the Spanish papers which formed part of this document, the passport of Montez, which covered the shipment of 49 "negros ladinos" was put into English as "sound negroes." The fact was, as has been said above, that *ladinos* meant "long resident in Cuba," as distinguished from those newly imported, or "bozals." This mistranslation, as well as the omissions already alluded to in the letters of the District Attorney, provoked sharp criticism, but there is no reason to suppose that it was due to anything but the ignorance or prejudice of the clerk from whose hands it came.

The newspapers of the day contained frequent allusions to all these matters, and the *Globe*, the official organ of the Administration, published at Washington, within a few days before the final hearing printed a communication in which after speaking of the arrest of Ruiz and Montez in New York, "under charges which the negroes were instigated to make" the writer said:

"This is the justice of an American Court, bowed down in disgraceful subserviency before the bigoted mandates of that blind fanaticism, which prompted the Judge upon the bench to declare in his decree, in reference to one of these negroes, that, although he might be stained with crime, yet he should not sigh in vain for Africa; and all because his hands were reeking with the blood of murdered white men. It is a base outrage (I can use no milder language) upon all the sympathies of civilized life."

This letter was introduced by the editor of the paper as coming from one of the highest intellects of the South.* It probably represented the views of the Administration, of which Von Holst has said in reference to this affair, in his *Constitutional History of the United States*, "it strained its influence to the utmost in the service of the slaveocracy in a case in which only the boldest sophistry could discover the shadow of an obligation."†

* Probably F. W. Pickens of South Carolina. † Vol. ii., p. 321.

Another thing which excited a good deal of feeling among the anti-slavery people of Connecticut was this:

By the laws of this State all those born in slavery after March 1st, 1784, were to be free when twenty-five years old,* and the census of 1830 showed only twenty-five slaves left among our population. In the returns of the census of 1840, it was observed with surprise that this number had been largely increased, and it turned out, on inquiry, that the Marshal, under whose direction they were captured, had added the 37 *Amistad* captives to the list. Complaint was made to the State Department, soon after Daniel Webster had taken Mr. Forsyth's place, and he ordered this addition struck out.†

In 1819 a South American privateer which during a long cruise had turned into something like a pirate, after plundering several slave-ships of their cargoes, was brought into Savannah by one of our cruisers. She had on board over 200 Africans, of whom 25 had been taken from an American slaver hailing from Rhode Island, and the rest from Spanish and Portuguese ships. Spain and Portugal claimed the latter, in behalf of their owners. The District and Circuit Courts decided that this claim was just; but here arose a practical difficulty. No one could tell which of the negroes came from the American ship, yet all agreed that these were entitled to their freedom, since the slave-trade was unlawful for Americans. The Circuit Court concluded to appeal to Heaven for aid. To quote the words of the Judge, (Judge Johnson, of South Carolina, one of the Justices of the Supreme Court of the United States), in regard to these men:

"I would that it were in my power to do perfect justice in their behalf. But this is now impossible. I can decree freedom to a certain number, but I may decree that to A, which is the legal right of B. It is impossible to identify the individuals who were taken from the American vessel, and yet it is not less certain that the benefit of this decree is their right, and their's alone. Poor would be the consolation to them to know that because we could not identify them, we had given away their freedom to others. Yet shall we refuse to act,

* Statutes, Revision of 1784, p. 235.

† Memoirs of John Quincy Adams, x. 451.

because we are not gifted with the power of divination? We can only do the best in our power. The lot must decide their fate, and the Almighty will direct the hand that acts in the selection."

Lots were accordingly drawn, and the required number set apart as free, leaving the rest to be divided between Spain and Portugal, but on appeal, the greater part of the proceedings were disapproved, including the lottery. Chief Justice Marshall delivered the opinion of the Supreme Court, and declared that the slave-trade had always been recognized as not unlawful by the law of nations, though it was prohibited by Act of Congress to Americans; but that while the Spanish and Portuguese claims for restitution were valid, each of those governments was bound to make out by satisfactory evidence which of the negroes belonged to its subjects.

This was known as the case of *The Antelope*,* and though decided by a Court equally divided in opinion upon some of the questions, was recognized from the first as the great obstacle in the road of the *Amistad* captives to liberty. It was relied on by the counsel for the claimants in the trial in Connecticut, and it was felt that the final struggle at Washington would depend greatly on the manner in which this precedent might be treated. In the argument before the Supreme Court, Mr. Adams was to act as the senior counsel for the captives, and he snatched every moment he could spare from his Congressional engagements, to bestow on the preparation for their defence. One day, he is moving the Supreme Court to order copies of more of the Connecticut proceedings to be sent up to Washington; on another he is in conference with the British minister; on another delving into the dusty files of the Court for the original papers, on which the decision of the *Antelope* was reached. The formal brief for the argument, stating the various legal points and authorities, was wholly prepared by Mr. Baldwin, though signed by both.

The District Attorney of the United States for the District of Columbia, at this time, was Francis S. Key, the author of the *Star Spangled Banner*. Mr. Adams met him in the

* 10 Wheaton's Reports, 66; 12 id. 546.

Supreme Court room, shortly before the case was reached, and fell into a conversation about it, of which his diary contains this note:*

"He said he was afraid there was not any chance for the poor creatures; that the case of the *Antelope* was precisely in point against them. He had argued that case for the freedom of the negroes, but it had been overruled. Yet it would never do to send them back to Cuba. The best thing that could be done, was to make up a purse, and pay for them, and then send them back to Africa.

I said we hoped to prove that the case of the *Antelope* would not be conclusive in its bearing upon our clients: but he continued very positive that it would. I went, therefore, into the Supreme Court library room, and took out the volume of Wheaton's Reports containing the case of the *Antelope*. I read as much of it as I could, and longed to comment upon it as I could; but I have neither time nor head for it—nothing but heart."

As the day drew near for the final argument, Mr. Adams writes in his diary (Dec. 12th 1840), that he began to prepare for it

"with deep anguish of heart, and a painful search of means to defeat and expose the abominable conspiracy, Executive and Judicial, of this Government, against the lives of these wretched men. How shall the facts be brought out? How shall it be possible to comment upon them, with becoming temper—with calmness, with moderation, with firmness, with address, to avoid being silenced, and to escape the imminent danger of giving the adversary the advantage in the argument by overheated zeal? Of all the dangers before me, that of losing my self-possession is the most formidable. I am yet unable to prepare the outline of the argument, which I must be ready to offer the second week in January. Let me not forget my duty."†

He was not the only person who was anxious about the character of his coming argument. His power of invective was well known, and friends of the navy officers who had seized the vessel began to fear that his denunciations might fall upon them. On Jan. 9th, 1840, he writes:‡

"Miss Margaret Monroe Stuart, came in—a maiden lady, who in the compass of half an hour, uttered in one continued stream, more good words than I could record in three months. Her sister is the wife of

* Memoirs, x., 396. † Memoirs, x., 373. ‡ Ib., 393.

Captain Gedney, who is here very sick, and, she fears, not very sound in mind. She came to entreat me that in arguing the Amistad case before the Supreme Court, I would not bear hard upon Captain Gedney, for she fears it might kill him, and she is sure it would kill her sister. I assured her that I would have all due consideration for the condition of Captain Gedney."

When the Africans heard that the argument in the Supreme Court was about to come on, they determined to write a letter to Mr. Adams, and Ka-le a bright boy of eleven who had picked up more English than the older ones, was selected as the scribe. The following was the result, written with no aid from white men:

"New Haven, Jan. 4, 1841.

Dear Friend Mr. Adams:

I want to write a letter to you because you love Mendi people, and you talk to the grand court. We want to tell you one thing. Jose Ruiz say we born in Havana, he tell lie. We stay in Havana 10 days and 10 nights, we stay no more. We all born in Mendi—we no understand the Spanish language. Mendi people been in America 17 moons. We talk American language little, not very good; we write every day; we write plenty letters; we read most all time; we read all Matthew, and Mark, and Luke, and John, and plenty of little books. We love books very much. We want you you to ask the Court what we have done wrong. What for Americans keep us in prison. Some people say Mendi people crazy; Mendi people dolt, because we no talk America language. Merica people no talk Mendi language; Merica people dolt? They tell bad things about Mendi people, and we no understand. Some men say Mendi people very happy because they laugh and have plenty to eat. Mr. Pendleton * come, and Mendi people all look sorry because they think about Mendi land and friends we no see now. Mr. Pendleton say Mendi people angry; white men afraid of Mendi people. The Mendi people no look sorry again—that why we laugh. But Mendi people feel sorry; O, we can't tell how sorry. Some people say, Mendi people no got souls. Why we feel bad, we got no souls? We want to be free very much.

Dear friend Mr. Adams, you have children, you have friends, you love them, you feel very sorry if Mendi people come and carry them all to Africa. We feel bad for our friends, and our friends all feel bad for us. Americans no take us in ship. We on shore and Americans tell us slave ship catch us. They say we make you free. If they make us free they tell true, if they no make us free they tell lie. If America people give us free we glad, if they no give us free we sorry—we sorry

* The jailer.

for Mendi people little. we sorry for America people great deal, because God punish liars. We want you to tell court that Mendi people no want to go back to Havana, we no want to be killed. Dear friend, we want you to know how we feel. Mendi people *think*, *think*, *think*. Nobody know what he think; teacher he know, we tell him some. Mendi people have got souls. We think we *know* God punish us if we tell lie. We never tell lie; we speak truth. What for Mendi people afraid? Because they got souls. Cook say he kill, he eat Mendi people—we afraid—we kill cook; then captain kill one man with knife, and cut Mendi people plenty. We never kill captain, he no kill us. If Court ask who brought Mendi people to America? We bring ourselves. Ceci hold the rudder. All we want is make us free.

Your friend,

Ka-le."*

It was agreed by the counsel for the Africans to present first a motion to dismiss the appeal, on the ground that the United States had no right to take it, for want of any legal interest in the result. This was to have been argued on Jan. 16, but Judge Story was absent, and Chief Justice Taney announced that the Court had deemed it advisable to postpone its consideration for a few days until his arrival, as the matter was an important one and should be heard by all the Judges. Mr. Adams was glad of the delay, for, he writes:†

"I was not half prepared, and went to the Court with a heavy heart, full of undigested thought, sure of the justice of my cause, and deeply desponding of my ability to sustain it."

During this interval, the British Minister on the suggestion of Mr. Adams‡ addressed a note to the Secretary of State, stating that his government had reason to know that the *Amistad* negroes were illegally imported into Cuba on a Portuguese slaver, and, on account of the fact that Spain renounced the slave-trade for a valuable consideration, given by Great Britain, the Queen took a peculiar "interest in the fate of these unfortunate Africans, who are known to have been illegally and feloniously reduced to slavery by subjects of Spain." He therefore expressed the hope that the President would find

* From the *Emancipator*, for Mar. 25, 1841. † Memoirs, x., 399.
‡ Memoirs, x., 400.

himself empowered to take such measures as would secure to the prisoners "the possession of their liberty, to which, without doubt, they are by law entitled."

After several postponements the hearing was reached, at last, on Saturday, February 20, 1841. The motion to dismiss the appeal, and the merits of the appeal were to be discussed together, and, the Attorney General, Mr. Gilpin of Pennsylvania, who had succeeded to Mr. Grundy of Tennessee, opened the argument. He was to close on Monday, and Mr. Adams spent Sunday evening in his last preparations. "Of all that I have written," he says in his diary, "nine-tenths are waste paper," * and, on Monday, he writes again:

"I walked to the Capitol with a thoroughly bewildered mind—so bewildered as to leave me nothing but fervent prayer that presence of mind may not utterly fail me, at the trial I am about to go through."

The Attorney General made a calm and logical argument, starting from the position that the ship's papers were conclusive as to the point that the negroes were lawfully held as slaves. If slaves, then they were property, and, as such, Spain had a right to demand their restitution, and our government but did its duty in endeavoring to enforce it, as we had done in the case of the *Antelope*. He spoke for five hours.

Mr. Baldwin followed, in what Mr. Adams describes as "a sound and eloquent, but exceedingly mild and modest argument."† His clients, he said, were contending for freedom and for life, with two powerful governments arrayed against them. Was ours to become a party to proceedings for the enslavement of human beings cast upon our shores, and found in the condition of freemen, within the territorial limits of a free and sovereign State? The United States had brought this appeal on the ground that these men were the property of Spanish subjects, and had been demanded by Spain. But the Spanish minister was no party to the appeal, and in one of his official notes to the State Department had expressly declared that the legation of Spain did not demand the delivery

* Memoirs, x., 429. † Memoirs, x. 429.

of slaves, but of assassins. These prisoners have been guilty of no crime. Cinquè, the master-spirit who guided them, had a single object in view. That object was—not piracy or robbery—but the deliverance of himself and his companions in suffering from unlawful bondage. They owed no allegiance to Spain. Their object was to free themselves from the fetters that bound them, in order that they might return to their kindred and their home.

A review of the legal points followed, and he closed with an allusion to the high considerations of national honor which had brought with him to their bar that illustrious citizen, who "after enjoying the highest honors that this or any other country can bestow, deems it a still higher object of his ambition to appear before this tribunal to plead the cause of helpless strangers, who have been thrown by Providence upon the hospitality of this nation, and at the same time, in the name and I trust as the representative of the American people, to vindicate the honor of our country and the claims of humanity and justice."

Monday and Tuesday were thus occupied, much to the relief of Mr. Adams, to whom every moment gained for further preparation was precious. On Tuesday morning, he writes in his diary:

"With increasing agitation of mind, now little short of agony, I rode in a hack to the Capitol, taking with me, in confused order, a number of books, which I may have occasion to use. The very skeleton of my argument is not yet put together.*

His interest in the cause was intense, and he said more than once, that if he should be in any way instrumental in rescuing these people, he should consider it the greatest event in his life.

On Wednesday morning, February 24, the "old man eloquent" rose to address the Court. In his own words:

"I had been deeply distressed and agitated till the moment when I rose; and then my spirit did not sink within me. With grateful heart for aid from above, though in humiliation for the weakness incident to

* Memoirs, x. 429.

the limits of my powers, I spoke four hours and a half, with sufficient method and order to witness little flagging of attention by the Judges or the auditory."*

He did not hesitate to make a direct attack upon the expiring Administration, and declare that its course had been governed not by any sense of justice, but by sympathy for Spanish slave-traders. And what, he said, had been the demand of the Spanish minister? That the President of the United States should first turn man-robber; rescue these forty Africans from the custody of the Court; next turn jailer and keep them in his close custody to prevent their escape; and lastly turn catch-poll and convey them to the Havana to appease the public vengeance of the African slave-traders of the barracoons.

The Court adjourned for the day in the middle of his argument, and on re-convening the next morning there was a vacant chair among the Judges. Mr. Justice Barbour of Virginia, had died during the night, with no premonition of danger, the fatal stroke being not improbably due to the excitement incident to the great cause, for the Judges had remained in the conference-room until a very late hour. An adjournment for the week followed, and it was not till March 1st, that Mr. Adams resumed his argument. He was still unsparing in his denunciation of the course of the Executive; to which he said, he was driven by his refusal to withdraw the appeal, notwithstanding a personal solicitation to do so which he had himself descended to make. Had the President ventured to give the order recommended by the Attorney General for the delivery of the captives to the Spanish minister, the people of Connecticut never would and never ought to have suffered it to be executed on their soil, but by main force. The warrant he did issue to put them on board the *Grampus*, assumed a power that no President had ever assumed before, one which it was questionable if the most despotic government of Europe possessed. Such a power would put the personal freedom of any citizen of the United States at the disposition of executive

* Memoirs, x. 431.

discretion, caprice, or tyranny. It was the servile submission of an American President to the insolent dictation of a foreign minister. The President must have been profoundly ignorant of the self-evident truth that the right of personal liberty is individual, that to every one that right is his own; for had he known it, he would have been guilty of willful and corrupt perjury to his official oath. It was a lawless and tyrannical order, and issued in cold-blooded cruelty, for the commanding officer of the *Grampus* had warned those who sent him on this errand, that his vessel was too small to carry so large a cargo of human flesh. The warrant, though absolute on its face, was made conditional on the judgment to be pronounced, by instructions to the District Attorney, thus "letting I dare not, wait upon I would." But the Attorney had encouraged the Secretary of State with soothing hopes "that the decree of the Judge, ordering the Africans to servitude and death in Cuba, would be as pliant to the vengeful thirst of the barracoon slave-traders, as that of Herod was in olden times to the demand of his dancing daughter for the head of John the Baptist in a charger."

Thus far Mr. Adams had taken the part of an orator, rather than of a lawyer, but he now made a very thorough and clear review of the case of *The Antelope*, and put the various rulings of the Court in the best light for his clients, of which they were susceptible. He closed with remarking sadly that a generation had passed away since the last time he had stood at that bar. Every Judge then upon the bench had passed away. His contemporaries at the bar had gone with them. One of the Judges before whom as arbiters of life and death, he had begun this very argument, was no longer among them. He, himself, was there for the last time, and could say, as he took his seat:

"*Hic cæstus, artemque repono.*"

The counsel for Lieut. Gedney were ready to follow him, in support of their claim for salvage, but the Court declined to hear any discussion as to that, until the question of jurisdiction, on the motion to dismiss, was disposed of. The Attorney

General therefore closed the case, on March 2d, occupying the entire day, as Mr. Adams says, in "reviewing, with great moderation of manner, chiefly Mr. Baldwin's argument, and very slightly noticing mine."* In the official report of the case, the arguments of the Attorney General and Mr. Baldwin are given at great length, but it is stated that, as no minute of that by Mr. Adams was furnished by him, none could be given, and that "as many of the points presented by Mr. Adams, in the discussion of the cause were not considered by the Court essential to its decision; and were not taken notice of in the opinion of the Court, delivered by Mr. Justice Story, the necessary omission of the argument is submitted to with less regret."†

The decision was announced early in the following week. It declared that the ship's papers of the *Amistad* were only *prima facie* evidence that the negroes were slaves, and had been amply overborne by testimony to the contrary. It also held that the Spanish treaty did not affect citizens of other governments, nor prevent kidnapped Africans from asserting and defending their liberty in any court. They were not, it was held, within the meaning of the statute of 1819, as to transporting negroes illegally brought here back to Africa, and must therefore "be declared free, and be dismissed from the custody of the Court, and go without day."

A brief note, written from the Court room to Mr. Baldwin, on Friday noon, March 9th, announced that "The decision of the Supreme Court in the case of the Amistad has this moment been delivered by Judge Story. The captives are free," and was signed:

"Yours in great haste and great joy,

J. Q. Adams."

Three years were still to elapse before the first telegraph line was established, and the New York newspapers outran the mails, bringing the glad news to New Haven on March 11th.

*Memoirs, x., 437.

†The United States *vs.* The Amistad, 15 Peters' Reports, 518, 566.

The negroes had by this time, on account of the demolition of the old jail, been taken to more roomy quarters in Westville, and the Marshal without waiting for the official mandate, drove out immediately to tell them of the result. "The big Court," he said, "say you all free: no slaves. Here it is in this paper —read it." Cinquè replied for the rest, "Me glad: me thank the American men," and told Ka-le to read it out aloud, but still looked as if he were in rather a doubting mind, saying "Paper lie sometimes."

Very soon, however, all misgivings were dispelled by the arrival of Mr. Ludlow and another faithful friend, Amos Townsend, and they all knelt down together to thank God for their final deliverance.

Freedom had come, but it was a barren gift. They were separated from their homes by the distance of half the globe, and in a State where they might be pitied, but were certainly not wanted. Two of the party had died in our jail. The *Amistad*, in which they had sailed to our shores, as masters, had been taken from them and sold with her cargo, pending the appeal, for the benefit of her original owners, and to pay the salvage claims. "Tell the American people," one of them said, "that we very, very, very much want to go to our home." *

Mr. Baldwin wrote to Mr. Adams in regard to the uncertainties of their future, and the following was his reply.

"Roger S. Baldwin, Esqr., New Haven:

Washington, 17 March, 1841.

My dear Sir:

Your obliging and very acceptable favour of the 12th inst. is before me. You observe that the inquiry is frequently made, what shall be done with the late captives of the *Amistad*, now that by the Supreme tribunal of the land they have been declared *free?*

Doubtless the benevolent friends of human nature and supporters of human rights who with a spirit worthy of guardian

*American and Foreign Anti-Slavery Reporter, Extra, Dec., 1840, p. 12.

angels, messengers from the throne of God, at the moment of their deepest calamity came to their aid and rescued them from the hand of lawless power, will yet not desert them in their mitigated but still distressed and helpless condition. They will still feel it to be their duty to cause them to be conveyed to their native land. But should the costs and charges necessarily incidental to that operation be borne by them? Certainly not. Is not the Government of the United States bound in honor and in justice to perform it? The Decree of the District and Circuit Courts so ordained. The Decree of the Supreme Court pronounces them *free*, and if free *now*, surely free *when found* by Lieutenant Gedney in possession of their vessel and cargo, the lawful spoils of their vanquished enemies and oppressors, and affording them ample means of completing the lawful voyage upon which they were then bound to their homes.

The Supreme Court of the United States has pronounced them *free*—but the executive and judicial authorities of this country have forcibly seized their persons and their property, have kept their persons eighteen months in prison, have taken from them their property, including the vessel, without which they could not accomplish their voyage, and now turn them adrift in a strange land, where they cannot subsist without assistance, and whence they cannot depart for their own country but by aid of the same charitable hands which first were extended for their relief.

I suppose with their freedom they may in this country earn their subsistence by their labor, but their desire to return to their own homes is reasonable and just, and the Government of the United States having by its *military*, *executive* and *judicial* authorities deprived them of the means of accomplishing that purpose, is bound in the forum of conscience to send them home at its own charge. I am not sure that it would not be bound in the same forum to indemnify them liberally for eighteen months of false imprisonment.

I would suggest to their friends, the propriety of addressing a memorial to the President of the United States, representing the facts, and requesting that a vessel of the United States may

be authorized to take and convey them to Sierra Leone or to some point on the coast of Africa whence they may be *safely* conducted to their own native soil. And if the President should think this would transcend his authority, a memorial to Congress might call upon the Legislative Department to confer the authority and provide the means of accomplishing this act of justice.

It would be a suitable and proper atonement for the desecration of our navy, in the projected expedition of the *Grampus*.

Immediately after the opinion and decree of the Supreme Court were delivered, I applied for a mandate to the Marshal of the District of Connecticut to discharge forthwith all his prisoners of the Amistad.

Judge Thompson, who was about returning immediately to New York, assured me that he would issue himself the order, and have it executed himself with delay.

I have caused the opinion and decree of the Supreme Court to be published in the *National Intelligencer*.

I am, with great respect, dear Sir,

Your friend and serv't,

J. Q. Adams."

The "Amistad Committee" wrote to Mr. Baldwin, on April 15th, to congratulate him on the successful termination of the cause. "The complete and final victory," they said, "which has crowned the case, in the face of so many taunting predictions of enemies, and desponding fears of friends, is the best attestation to the wisdom and fidelity with which it has been conducted. And as the laboring oar has been chiefly in your hands, and the main responsibility of the case has rested on your shoulders, and we doubt not has weighed heavily on your mind for many long months, we feel that the happy issue is to be ascribed, under favor of a kind Providence, in a very great degree to your skillful and able efforts."

The committee resolved not to relinquish their labors until the Africans had been safely restored to their native land. New appeals for subscriptions were made, and a party of the

captives was taken about the country for exhibition, accompanied by some one who was able to tell their story for them, and urge their cause upon the sympathies of the public. The rest were sent up to Farmington for employment and instruction.

In a few months the necessary funds were secured, and in 1842 the survivors found themselves again in their own country, accompanied by two Christian missionaries. The first suggestion was that they should be sent back in this way under the auspices of the American Board of Commissioners for Foreign Missions, and the Amistad committee offered what funds they had collected to the Board for this purpose, provided they would make it an anti-slavery mission. The offer was not made with the approbation of the extreme abolitionists, who would have nothing to do with a society which accepted contributions from slave-holders.

"How," said the *Emancipator*,* "would the people of Mendi receive a mission supported by the sale of negroes in Virginia —*provided the whole story were told?* The very idea of such a mission would make fiends laugh."

The Board declined the proposition,† and the Amistad committee thereupon went forward on its own responsibility in establishing the "Mendi Mission," which still exists as an important center of Christian civilization. In 1846, its maintenance was assumed by the American Missionary Association, a society formed by the union of four prior missionary organizations, of which the Amistad committee was one.

Cinquè, on his return, relapsed into savagery but finally settled down into the position of interpreter of the mission station, where he died, about 1879. Margroo (or Sarah), one of the girls, became a teacher at the mission school, and was the last survivor of the whole company. The services at Cinquè's funeral were conducted by the Rev. Albert President Miller, a graduate of Fisk University of the class of 1878, who, after a term of missionary service in Africa, came to this city in 1883 to be the pastor of the Temple Street Congregational Society.

The Secretary of State had offered to surrender Antonio to

* Issue of April 15, 1841. † Life of Arthur Tappan, p. 321.

the Spanish legation, immediately after the decision of the District Court in 1840. As, however, the District Attorney suggested that his testimony would be important for use against the Africans, should the appeal of the United States be successful, he was allowed to remain in jail until the final judgment of the Supreme Court. When informed of it, he still professed his desire to return to slavery, but just as our government was about to turn him over to the Spanish authorities, he slipped away to New York and placed himself in the hands of Lewis Tappan, who soon put him beyond the chances of recapture.

On May 29, 1841, the Chevalier de Argaiz addressed to our State Department a formal demand for indemnity for the losses to the owners of the *Amistad* and her cargo, and for an assurance that the forced and illegal "course given to this affair" by the government of the Union, should "never serve as a precedent in analogous cases which may occur."

Daniel Webster was now the Secretary of State, and he at once sent a clerk to Mr. Adams for advice as to his reply. The latter writes, in his diary, May 31, 1841, "I gave him Mr. Baldwin's argument in the case of the *Amistad*, and desired him to advise Mr. Webster not on this occasion to truckle to Spain."*

The matter was laid before President Tyler, and in the following September a reply was made, taking the ground that the decision of the Supreme Court was conclusive on the Executive, and declining to accede to any of the demands of the Spanish minister. The latter rejoined that he had "received express orders from his government to protest in the most solemn and formal manner against all that has been done by the courts of the United States in the case of the schooner *Amistad*." Mr. Webster returned to this, on June 21, 1842, a lengthy dispatch, in which plainer language was used than that of his former communication, and Montez and Ruiz were described as persons who "had held in unjust and cruel confinement certain negroes who, it appeared on the trial, were as free as themselves."† Spain again expressed her dissatisfaction with these

* Memoirs x. 470.

† Webster's Diplomatic and Official Papers, 355.

views in language of rather a threatening character, and the President communicated all the correspondence to the House of Representatives,* with a recommendation that the amount of the salvage allowed to the officers of the *Washington* should be refunded, as a proof of our good faith.

The Committee on Foreign Affairs reported on the matter, April 10, 1844. The decisions of our courts, they said, were erroneous. "A lawless combination, insisting that these blacks were guilty of no offence, resisted their being punished or tried in this country, or their extradition for trial and punishment in Cuba."† . . . "Zealots, with the help of the press, resisted the course of justice, and resolved to free the negro malefactors at all hazards. Moral force and intimidation (too significant of the physical violence to be the last resort, should justice be done), were put in operation to awe the courts, and rescue the slaves from their control. If they had been white, the due course of law would have been undisturbed. But the fanatical denunciation of negro slavery, which latterly passed over from England to America, created these blacks heroes and martyrs, surrounded them with irresistible succor, and your committee own with humiliation, set all law and its administration at defiance." Dr. Madden's testimony was denounced as the bold fabrication of a salaried spy. "We are accustomed," the report continued, "to regard the Spanish inquisition as the worst possible dispensation of injustice. But what will be said of American justice when large bodies of men combine, and not only with impunity but applause and transcendent success, prostrate treaties, annul acts of Congress, intimidate courts of justice, seize and imprison parties litigant before them, steal their adjudged property, and by fictitious contrivances of proof, overthrow all law to set free murderers, robbers and pirates?" They then analyzed the evidence and findings on which the judgments were pronounced, and commented with great severity on a discrepancy of a year which they had discovered in the "judicial chronology" in regard to

* By his messages of Feb. 27, 1842, and January 24, 1844.

† Reports of Committees, 1st Sess., 28th Congress, vol. ii., No. 426.

the time the negroes had been in Cuba. Unluckily, however, this mistake was their own, as they had assumed the capture by the *Washington* to have been made in August, 1840, when it really was in August, 1839, a gross error, the exposure of which greatly discredited their conclusions. They recommended an appropriation of $70,000 to indemnify the owners of the *Amistad* and her cargo, and Charles J. Ingersoll of Pennsylvania, their chairman, moved that ten thousand copies of the report be printed for public distribution.

Joshua R. Giddings made the single speech which was necessary to defeat the measure.* It is indexed in the *Congressional Globe*, as "Remarks on the subject of paying for the negro pirates on the schooner *Amistad*."

Mr. Adams had prepared himself to follow Mr. Giddings, but the report was laid on the table so promptly that he had no opportunity to give his views to the public, except through the newspapers. He wrote of it in his diary: "A baser and more profligate misapplication of public money was never made than that proposed by this bill; and seven years in a penitentiary-cell would be a strictly just retribution for the report."†

A year later, he published, in an address to his constituents, the speech which he had intended to deliver in the House,—a biting attack upon the committee, whom he charged with throwing before the public a "putrid mass of slander," and a report "thick-sown" with "false and spurious principles of international law."

The Spanish minister, encouraged by some allusions to the matter in President Tyler's annual message, had meanwhile (on Dec. 4, 1844) again brought the matter to the attention of our Department of State, of which John C. Calhoun was now the head, in a dispatch in which he dwelt on the "gratuitously cruel persecutions against inoffensive subjects of her Catholic Majesty, of which an example fortunately rare in the annals of civilized nations, has been exhibited in the confiscation of the *Amistad*, its sale, and the arbitrary confinement, in public

* *Cong. Globe*, 1st Sess., 28th Congr., appendix, p. 500.

† Mem. xii. 186.

prisons, of the two respectable Spaniards, escaped from the murderous dagger of the negroes, who had inflicted a violent death on the captain and crew of that ill-starred vessel." He commended Mr. Ingersoll's report very warmly, as giving "most estimable proofs of noble frankness and of an intrepid love for truth."

This was followed up, after President Polk's accession to office, by another letter (of Jan. 29, 1846), to Mr. Buchanan as Secretary of State, and both these communications were then brought to the attention of Congress. They were referred by the House, to the committee on Foreign Affairs of which Mr. Ingersoll was still chairman, and they renewed their former report,* on June 24, 1846, but without effect, the measure only receiving about forty votes.

In his next message, the President recommended an appropriation for the benefit of the *Amistad* claimants, as a measure required both by good policy and faithful compliance with our treaty obligations. Before this recommendation was acted upon, in February, 1848, Mr. Adams' long term of service in the House of Representatives, beginning in 1831, came to a sudden close. He died at his post, in the Capitol, sinking to rest with these words on his lips: "This is the last of earth; I am content."

At the close of the session, an appropriation of $50,000 to be paid to the Spanish government in settlement of its claims, was carried in the Senate, but defeated in the House. Among the senators voting in the negative was Roger S. Baldwin of Connecticut, one of the new members, who had recently taken his seat, and the leading speech against the proposition in the House was by the late John A. Rockwell of Norwich.

Another bill for the same purpose was favorably reported to the Senate in 1851, and again in 1852. Gov. Seward of New York, who had entered the Senate in 1849, opposed its adoption, and it was not acted upon during the session.

The annual message of President Pierce in 1853, revived the

* Report No. 753, House of Representatives, 29th Congress, 1st Session.

subject, and advised an appropriation. Mr. Giddings again took the floor against it, and again with success. The next administration, that of President Buchanan, a few years later, still urged this measure upon Congress, and it was discussed for the last time in both Houses. The Senate committee on Foreign Affairs reported in favor of an appropriation, a minority report however, being submitted by Gov. Seward. The bill went to a second reading, but no farther, and the latest trace of it is found in the unfinished business that went over, at the close of the first session of the thirty-fifth Congress, May 20th, 1858.

So ended the last chapter in the history of the *Amistad*. New questions had arisen to occupy the public mind. The discussions that shook the councils of the nation in 1859 and 1860, were not as to whether slave-traders should be paid for the escape of their living cargoes, but first whether the whole system of society out of which the slave-trade sprang was not a false one, and then whether those who so believed, if a majority of the American people, should be suffered to exercise the powers of government at Washington.

I will not allude to the history of the last quarter of a century farther than to say that the United States is not the only land that has grown freer since that Summer day in 1839 when the captives of the Amistad were blown upon our shores.

At the Milan Conference of the Association for the Reform and Codification of the Law of Nations, held in 1883, resolutions were adopted that "every clause in any international treaty, which binds a State to give up slaves who have come within its territory, is invalid with regard to international law," and that "where the extradition of an accused person who was a slave in the country seeking for his extradition is requested, such extradition should only be accorded, if the extradition of a free man would be accorded in the same case."* Copies of these resolutions were communicated to the Spanish government, among others, and on May 17, 1884, a response was sent from the Colonial office at Madrid, approving their declara-

* Report of Conference of 1883, p. 118.

tions, and stating that they "are in no way an innovation in Spain, whose ancient laws have always recognized as free the slave who enters the territory (including her own) of a nation where slavery does not exist, or who seeks refuge on board a ship belonging to such a nation."

In his argument before the Supreme Court, Mr. Baldwin had asserted that "The United States, *as a nation*, is to be regarded as a free State." If this position was questionable then, it was assured twenty years later, and it is pleasant to see that another twenty years has brought Spain herself into the same rank, and hears her ministry disown the claim on which their predecessors so stoutly founded their demand for the restoration of the captives of the *Amistad*.